

# Reconciling Liberalization and Public Service Obligations<sup>1</sup>

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## 1. Introduction

This article analyses the liberalization of telecommunications, postal services, energy (electricity and natural gas) and railways in the European Union. These are services which are regulated by the State for public interest reasons. The providers of these services are required to deliver them not only on purely commercial grounds, but also to comply with certain public service obligations.

For a long time regulated public services lay effectively outside the scope of European legislation, even though there was no explicit exemption in the EC Treaty. However, during the 1980s the new impetus provided by the completion of the Internal Market with freedom of movement for goods, services, persons and capital meant that the European Commission made proposals aiming at full or partial liberalization in the telecommunications, postal services, energy and rail transport sectors.

In a recent document entitled: *Services of general interest in Europe*,<sup>2</sup> the European Commission defined its approach towards the liberalization of regulated public services. The document states that services of general interest are at the heart of the European model of society. In this document, the Commission has tried to clear up any questions surrounding regulated public services and other services of general interest. In doing so it has chosen to clarify its terminology as follows:

- **Services of general interest:** market and non-market services which the public authorities class as being of general interest and subject to specific public service obligations;
- **Services of general economic interest:** this is the term used in Article 90 of the EC Treaty and refers to market services which the MS subject to specific public service obligations by virtue of a general interest criterion, for example in the fields of transport networks, energy and communications;
- **Public service:** this is an ambiguous term since it may refer either to the actual body providing the service or to the general interest role in view of which specific public service obligations may be imposed by public authorities on the body rendering the service (e.g. in matter of inland, air or rail transport and energy);
- **Universal service:** this is an evolutionary concept, developed by the Community institutions, referring to a set of general interest requirements to be satisfied by telecommunications and postal service operators throughout the Community. The object of the resulting obligations is to make sure that everyone has access to certain high quality essential services at prices they can afford.

In the document, the Commission argues that the real challenge is to ensure smooth interplay between the

requirements of the single European market and free competition on one hand and general interest objectives on the other.<sup>3</sup> In other words, the European Commission is of the opinion that a balance should be struck between liberalization and public service obligations.

## 2. Community law on regulated public services

The EC Treaty only contains a few references which relate directly to regulated public services. The only reference to the concept of public service<sup>4</sup> is to be found in Article 77 concerning a Common Transport Policy. It provides that state aid does not violate the Treaty if it meets the needs of transport coordination or if it represents reimbursement for the discharge of certain obligations inherent in the concept of a public service. This Article has however only played a marginal role in recent Community policy on the liberalization of regulated public services.

Article 222 states that it is of no consequence whether an enterprise is publicly or privately owned when it comes to applying Community law. Therefore, Community policies on the liberalization of regulated public services do not require the privatization of public enterprises, although many former public monopolies have been sold to the private sector, especially those in the field of telecommunications (e.g. British Telecom, the Dutch KPN, the Spanish Telefónica).

Up till now, Article 90 of the EC Treaty has played the most important part in determining the role of regulated public services in the European Community. Its main significance is that undertakings responsible for operating services of general economic interest are subject to the rules on competition insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. Moreover, the development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

Article 90(3) explicitly confers power on the Commission to address relevant Directives or Decisions to Member States with a view to applying Article 90. However, in its liberalization policy the Commission has generally chosen to use Article 100a as a legal base. This Article provides legislation aiming to harmonize national legislation in the context of the establishment of the Internal Market. Legislation using Article 100a, which provides for the adoption of legislation according to the co-decision procedure (Article 189b), as a legal base involves a longer process as both the Council of Ministers and the European Parliament are heavily involved in it.

In recent years, Article 90 has generated an extensive debate on the relationship between Community law and regulated public services which are responsible for providing services of general economic interest. Different views are voiced in this debate. According to some, there

is too much focus on competition and not enough on services of general economic interest. The Commission has assumed the role of the guardian of both free competition and general interest, as it recently stressed in its document on general interest services. The interpretation of Article 90 of the EC Treaty by the Court of Justice has in some cases allowed a restriction on competition if necessary for the accomplishment of special tasks. Moreover, the adopted and proposed legislation in the field of regulated public services (for more details, see below) shows how both free competition and restrictions on competition can have a place if required for the accomplishment of special tasks. The balance between both aspects is subject to the principle of proportionality, implying that the restriction on competition should be no greater than is required to accomplish the special tasks.

### 3. Case-law: the Corbeau and Almelo cases

In most cases concerning the interpretation of Article 90, the Court has struck down obstacles to competition. However in a few cases, it allowed for general interest concerns to prevail over competition under certain conditions. Many see in the Corbeau-case<sup>5</sup> and the Almelo-case<sup>6</sup> an interpretation by the Court of Justice, which favours a more positive approach towards regulated public services. As an illustration of the interpretation both above mentioned cases are dealt with briefly below.

#### *Corbeau*

Mr. Paul Corbeau was prosecuted for infringing Belgian legislation on the postal monopoly. In Belgium the law conferred on the *Régie des Postes*,<sup>7</sup> a legal person under public law, the exclusive right to collect, carry and distribute all correspondence of whatever nature throughout the Kingdom, with infringements to the monopoly being subject to penalties. Within the city of Liège and the surrounding areas, Mr. Corbeau provided a service consisting of collecting mail from the sender's address and distributing it by noon the following day, provided that the addressee was located within the district concerned. Mr. Corbeau collected correspondence destined for addresses outside that district from the sender's address and sent it by post. In its judgement, the Court stated that the Régie des Postes is an undertaking responsible for operating services of general economic interest and that therefore a restriction on competition was justified in order to achieve an economic balance in which loss-making sectors are offset against profitable sectors. However, the Court also ruled that the exclusion of competition was not justified when dealing with specific services disassociated from the general interest which meet certain economic needs and which call for certain additional services not offered by the traditional postal service, such as collection from the senders' address, greater speed or reliability of distribution or the possibility of changing the destination in the course of transit, insofar as such services do not compromise the economic stability of the service of general economic interest carried out by the holder of the exclusive right.

#### *Almelo*

The Almelo-case concerns a dispute between the municipality of Almelo in the Eastern part of the Netherlands and the other local distributors of electric

power on one side and *Energiebedrijf IJsselmij* (IJM), an undertaking engaged in the regional distribution of electric power, on the other. In the framework of the Dutch energy distribution system which comprises a local and a regional level, a Royal Order of 1918 granted the IJM a non-exclusive concession allowing it to distribute electricity within the territory covered by that concession. IJM supplies electricity to local distributors, in particular the municipality of Almelo. Between 1985 and 1988, local distributors were prohibited from importing electricity due to an exclusive purchasing clause obliging the municipalities to obtain electric power for supply in their territory exclusively from the IJM and to use that power only for their own consumption or for supply to third parties for consumption in the territory of the municipality. There was therefore a prohibition against imports of electric power, of which the electricity producers have the monopoly. The Court ruled that Article 85 of the Treaty (agreements between undertakings, decisions by associations of undertakings, concerted practices) prevents a regional electricity distributor from applying an exclusive purchasing clause prohibiting a local distributor from importing electricity for public supply purposes and affecting trade between Member States. It judged moreover that Article 86 (abuse of a dominant position) prevents an exclusive purchasing clause which affects trade between Member States where a regional electricity distributor belongs to a group of undertakings occupying a dominant position in a substantial part of the Common Market. However, the Court ruled that Article 90(2) of the Treaty was to be interpreted as meaning that the application by a regional electricity distributor of such an exclusive purchasing clause does not fall under the prohibitions contained in Articles 85 and 86 of the Treaty insofar as that restriction of competition is necessary in order to perform its general interest role. In this regard, the economic conditions under which the undertaking operates must be taken into account, in particular the costs which it has to bear and the legislation to which it is subject, particularly concerning the environment.

### 4. Sectoral approach of the European Commission

In its liberalization policy for regulated public services, the Commission has opted for an approach that considers regulated public services per sector, as each sector has its own technological and market characteristics. Nevertheless, there are some common elements in the legislation and proposals in all of the sectors concerned, for example public service obligations (either defined on the European level or chosen at the discretion of the Member States) comprise an important element in all sectors. There are provisions dealing with the separation of financial accounts between different functions within one organization (unbundling principle) for all sectors. Moreover, a distinction is made between operating and regulatory bodies in all sectors.

#### 4.1 Telecommunications

The most successful Community policy on liberalization to date has been that regarding telecommunications services. Voice telephony infrastructures and markets are to be opened up by 1 January 1998 at the latest (in the year 2000 in Luxembourg and 2003 in Spain, Portugal, Greece and Ireland). For this purpose, regulatory bodies are to be kept separate from the operators and public networks will

be open to other operators.

Kovar distinguishes three steps in the Community's liberalization policy in the telecommunications sector.<sup>8</sup> The first deals purely with the liberalization of services which provide something in addition to the basic service, the so-called value-added services. The second step has extended liberalization towards voice telephony and the third step foresees the liberalization of infrastructures.

In 1987 the Commission set out its approach in a Green Paper<sup>9</sup> followed by the adoption of Directives 88/301/EEC<sup>10</sup> (providing for competition in the market of terminal equipment for telecommunications) and 90/388/EEC<sup>11</sup> (competition in the markets for telecommunications services) based on Article 90(3). The Council adopted Directive 90/387/CEE<sup>12</sup> on the establishment of the Internal Market for telecommunications services through the implementation of the Open Network Provision, which harmonized conditions of access to public networks. Directive 90/388/EEC was amended by the Commission Directive 96/2 with regard to mobile and personal communications.<sup>13</sup> Regarding the liberalization of voice telephony and telecommunications infrastructures, the Commission published a Green Paper in two parts<sup>14</sup> in which it outlined the legal framework for a fully competitive environment. The publication was followed by the adoption by the Commission of Directive 96/19/EC,<sup>15</sup> amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets. Further legislation has been adopted or is in the pipeline, for example Directive 95/62/EC<sup>16</sup> from the European Parliament and the Council which is a specific Directive establishing open network conditions for the voice telephony service. A common position has been adopted by the Council and the Parliament on a proposal for a Directive on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP).<sup>17</sup>

The public service obligations in telecommunications that accompany the opening up of markets and infrastructures are defined in terms of universal service. The historical antecedents of the term are to be found in the United States where the concept of universal service was linked to the monopoly of AT&T, but where, after a decision of divestiture by the judge, universal service was linked to the idea that competition is the best way to ensure everyone gets a minimum service of a certain quality on a permanent basis and at an affordable price.<sup>18</sup> Universal service requirements in telecommunications can be summed up as a defined minimum set of services of specified quality available to all users independent of their geographical location and, in the light of specific national conditions, at an affordable price.<sup>19</sup> This applies to the provision of a voice telephony service via a fixed connection which will allow a fax and a modem to operate, as well as to the provision of operator assistance, emergency and directory enquiry services and the provision of public payphones. In a recent proposal by the Commission adapting the Voice Telephony Directive to a competitive environment,<sup>20</sup> universal service is no longer equated with access solely via a fixed line, but is extended to a wireless connection.

The newly proposed Directive clearly shows that universal service is an evolutionary concept, which implies

that its contents may change as a result of technological developments and the changing requirements of users/consumers. In view of this, the Commission will report on the scope, level, quality and affordability of universal service in the Community by 1 January 1998. Moreover, universal service is recognized as an essential element of the global information society,<sup>21</sup> in which the access of information is an essential part of citizenship.

The Community framework for financing the costs of universal service envisages payments being made (i) into an independent universal service fund at a national level which would make payments to operators providing universal service or (ii) directly to operators providing universal service as an additional payment to the commercial charges for interconnecting with their network. It is up to the National Regulatory Authority to decide whether or not to fund the net cost of universal service in a Member State. The Interconnection Directive provides that the net cost of universal service consists of the difference between the net cost for an organization of operating with universal service obligations and operating without universal service obligations. National schemes for financing universal service must be compatible with Community law and should be reported to the Commission. In a recent Communication, the Commission provided the assessment criteria for examining national legislation dealing with the implementation of national schemes for universal service as well as guidelines for National Regulatory Authorities for the operation of National Schemes.<sup>22</sup>

#### 4.2 Postal services

The liberalization of postal services is much slower and more limited in scope than with telecommunications, not only because technological developments are less apparent than in the telecommunications sector, but also because Member States encounter many more difficulties when it comes to making agreements on liberalization. Universal service is the central concept behind the liberalization of postal services. The Commission initiated the liberalization of the postal sector in 1992 when it presented a Green Paper on the development of the Internal Market for postal services,<sup>23</sup> followed by a communication in June 1993 on the guidelines for the development of Community postal services.<sup>24</sup> In July 1995, the Commission proposed measures aiming to gradually open up the markets to competition in a controlled way by the year 2000.<sup>25</sup> The European Parliament adopted 58 amendments in its first reading of the co-decision procedure, which aimed at delaying the liberalization of the postal services market and which highlighted the quality of postal services as well as public service obligations. Subsequently the Commission presented an amended proposal<sup>26</sup> on which the Council of Ministers reached a common position in December 1996.

One has to distinguish between the universal service on the one hand and the area of services that may be reserved for the universal service provider on the other hand. The universal service provides a good-quality postal service for all users throughout their respective territory at affordable prices. Moreover, there will be guaranteed collection from the clearance points as well as door to door delivery every working day and not less than five days a week for every natural or legal person save in exceptional

circumstances. The universal service, which covers both national and cross-border services, will include the collection, transport and distribution of addressed mail items and addressed books, catalogues, newspapers and periodicals up to 2 kg and addressed postal packages up to 20 kg, as well as services for registered and insured items as part of its basic facilities.

One or more postal operators will be responsible for providing a universal service in each Member State and it is up to the Member State to decide which obligations and rights will be assigned to the universal service provider. The services reserved for the universal service provider to the extent necessary to ensure that the universal service is maintained are the collection, sorting, transport and delivery of items of domestic correspondence the price of which is less than five times the public tariff for an item of correspondence in the first weight band (generally <20 grams), provided that they weigh less than 350 grams. The distribution of incoming cross-border mail and direct mail (the same mail item sent to a significant number of addresses for advertising or marketing purposes) may continue to be reserved until the year 2001. That universal service in the postal sector is an evolutionary concept is made clear by the general reexamination of the scope of the reserved area of services to take place by the first half of the year 2000 at the latest. The Commission will report on this to the Council and the Parliament.

When the universal service obligations in postal services represent an unfair financial burden on the universal service provider, commercial provision of non-reserved postal items to the public may be authorized subject to an compulsory financial contribution to a compensation fund.

Finally, separate accounts are necessary for the different reserved and non-reserved services in order to introduce transparency in their actual costs and to ensure that cross-subsidies from the reserved sector to the unreserved sector will not affect competitive conditions in the latter.

#### 4.3 Energy

In the field of Energy, the Commission has long been striving for common rules for the Internal Market for electricity and natural gas. Initial proposals, one concerning common rules for the Internal Market for electricity<sup>27</sup> and one concerning common rules for the Internal Market for natural gas,<sup>28</sup> have come across major difficulties. In 1992, the Council accepted the proposals but the European Parliament proposed some 300 amendments including the need for a clearer definition of public service obligations. In 1993, the Commission amended its proposals for the Internal Market for natural gas and electricity, which included references to public service obligations. On 20 December 1996, the Council finally adopted the Directive on common rules for the Internal Market for electricity which provides for a gradual opening up of the electricity market over six years, from 1999 onwards.<sup>29</sup>

##### 4.3.1 Electricity

Following the calculation of the percentage of electricity in the Community consumed by users consuming more than 40 Gigawatt hours (GWh) per year, the electricity market will be opened up by 22% from 1999. After six years (by the year 2005), around 33% of the market will be

opened up when the consumption threshold will have fallen to 9 GWh per year. Final consumers consuming more than 100 GWh per year must be included in the category of eligible consumers that have the right to choose their electricity supplier.

In opening up the market, Member States can opt either for "negotiated access" to the system or for a "single buyer". In the first case, producers supply undertakings and eligible customers will be able to negotiate access to the system so as to conclude supply contracts with each other on the basis of voluntary commercial agreements. In the second case, a Member State designates a legal person to be the "single buyer" who may be obliged to purchase electricity contracted by an eligible consumer from a producer inside or outside the territory at a price equal to the sale price offered by the single buyer to eligible consumers minus the price of a published non-discriminatory tariff for the use of the transmission and distribution system.

In compliance with Article 90, the Directive provides that Member States may impose public service obligations which may relate to security, including security of supply, quality and price of supplies and to environmental protection on undertakings operating in the general economic interest in the electricity sector. Member States may decide not to apply parts of the Directive if its application would obstruct the performance, in law or in fact, of the obligations imposed on electricity undertakings in the general economic interest and insofar as the development of trade would be contrary to the interests of the Community.

The unbundling principle requires integrated electricity undertakings to keep separate accounts for their generation, transmission and distribution activities with a view to avoiding discrimination, cross-subsidization and distortion of competition.

##### 4.3.2 Natural gas

Regarding the Internal Market for natural gas, the Council has not yet adopted a common position on the amended proposal for Internal Market rules.<sup>30</sup> The proposed Directive allows natural gas undertakings to conclude supply contracts with consumers who are large industrial consumers (more than 25 million cubic meters of gas per year) and with distribution companies on the basis of commercial agreements. The unbundling principle is involved as separate accounts must be kept for the transmission, distribution and storage functions of integrated undertakings. Member States will be allowed to impose public service obligations on undertakings operating in the natural gas sector as regards the security, regularity, quality and price of supply. They will also be allowed to oblige distribution companies to supply customers located in a given area. The tariff for such supplies may be regulated, for example to ensure the customers concerned are treated equally.

##### 4.4 Railways

When comparing railway services to other regulated public services, particularly telecommunications, it is generally recognized that market forces alone do not always guarantee the level, scope and quality of transport service required to fulfil essential economic, social and regional policy goals. This is particularly true in the case of urban and regional

public passenger service. As a general rule, the Member States have the right to obtain rail transport services in the public interest, as long as they compensate transport operators for the financial burden involved.<sup>31</sup>

In the framework of the development of the Community's railways, Council Directive 91/440/EEC<sup>32</sup> was adopted, providing for:

- independent management of railway undertakings;
- a split between railway operation and infrastructure and the provision of railway transport services; separation of accounts being compulsory and organizational or institutional separation being optional;
- the improvement of the financial structure of undertakings;
- access to networks of Member States for international groupings of railway undertakings and for railway undertakings engaged in the international combined transport of goods.

This Directive can be seen as a first step towards further liberalization. In 1995, the Commission proposed to modify Directive 91/440/EEC so as to extend access rights to railway infrastructure for all freight as well as for international passenger services.<sup>33</sup>

Further developments in the Community's railways were announced in a White Paper published in 1996.<sup>34</sup> In the White Paper, the Commission considers that the current organization is neither transparent nor efficient enough to ensure a high quality, efficient public service. It envisages that public service requirements in rail transport could be fulfilled by generalizing the use of public service contracts agreed by the State and the transport operator, replacing a system in which public service obligations are imposed on transport operators. In the process, market forces would be involved in the operation of services.

## 5. Modifying the Treaty?

Several interest organizations and Community institutions have proposed that more explicit references to regulated public services be introduced into the Treaty in order to strike more of a balance between competition on the one hand and public service obligations on the other. The major issue is whether it is necessary to modify the Treaty for this purpose.

### 5.1 European institutions

The European Parliament is very much in favour of introducing public service obligations in the Treaty. In its Resolution on the Intergovernmental Conference (IGC),<sup>35</sup> it stated that Community action is not only directed towards establishing a competition regime within the Internal Market, but that it is also there to serve the general interest and therefore has a role to play in strengthening economic and social cohesion and protecting consumers and service users. In the same Resolution, the EP stated that Article B of the Treaty on European Union and Articles 90(3) and 100a of the EC Treaty should be amended to include a reference to services of general economic interest. It also declared that the fundamental principles of public service, defined as accessibility, equality, continuity, quality, transparency and participation, should be written into the Treaty. The European Commission has proposed to include a reference

to the promotion of services of general interest as one of the objectives of the Community in Article 3 of the EC Treaty. The Reflection group which had the task of preparing the agenda for the IGC has referred to regulated public services<sup>36</sup> by stating that a majority of the Group members is in favour of considering the reinforcement of the concept of public service utilities. However, others believe that the general interest would best be served by maintaining the existing provisions of the Treaty.

### 5.2 Interest groups

The most far reaching proposals have come from the interest organizations ISUPE<sup>37</sup> (*Initiative pour des Services d'Utilité publique en Europe*) and CEEP<sup>38</sup> (*Centre européen des Entreprises à Participation publique*). ISUPE has proposed that a new Article 84A be added to the Treaty. The most essential element of the ISUPE proposal is that the Treaty rules, notably on competition, do not apply to public service utilities, except when the Council and national law decide differently. The proposal aims at a fundamental change in the Treaty. According to the proposal, competition would become the exception instead of the rule for public utility services aimed at general economic interest. The CEEP has proposed to modify Article 90 by removing the paragraph on services of general economic interest and inserting a new Article 94A within a new Chapter 2 in Title V of the EC Treaty, concerning services of general economic interest.<sup>39</sup> Unlike the ISUPE-proposal, the CEEP-proposal does not represent a fundamental change as services of general economic interest will normally be subject to competition rules. However, Article 94A shows the attempt to define the obligations of enterprises responsible for general economic interest more clearly by referring to the equal treatment of consumers, continuity, adaptability, quality of service, transparency, effectiveness and opening of their management to consultation (proposed Article 94A(2)). Moreover, on the initiative of the former president of the European Commission Jacques Delors, the CEEP has drawn up a Draft European Charter of Services of General Economic Interest.<sup>40</sup>

### 5.3 Conclusion

The General Outline for a Draft Revision of the Treaties as presented by the Irish Presidency during the Dublin summit in December 1996<sup>41</sup> shows that no concrete progress has been made on the issue of public service utilities during the IGC. It states that proposals on the provision of services of general interest will have to be considered further by the Conference. If the Treaty is to be modified as regards public service utilities, the change will probably comprise a reference to the promotion of service of general interest added as a paragraph "u" to Article 3.

It is difficult to predict whether the Treaty will be modified because of the different traditions and histories of the public service utilities of the EU Member States which influence the actual positions adopted by the Member States. Countries with a very strong tradition of public service utilities which form part of the administrative law and are often constitutionalized tend to be those most in favour of introducing explicit references to public service utilities in the Treaty. The concept of public service utilities is most marked in France (*concept de service public*), and it is also important in Spain, Italy, Portugal,

Belgium and Greece. However, the concept of public service utilities like the French one is unknown in the other Member States. Some of the other Member States which do not have a strong public service tradition (e.g. the United Kingdom and the Netherlands) are not in favour of introducing references to public service utilities in the Treaty.

In the future, the liberalization of public services will most probably take place gradually and be balanced out by public service obligations which differ in character across the various public utilities sectors. This policy, which is already to be found in Article 90 of the Treaty and which has subsequently been pursued by the European Commission and the Court of Justice, will be maintained and any modification to the Treaty will probably not greatly change its direction. □

## NOTES

1. This article will be part of a compilation of the proceedings of a colloquium on Managing Universal Service Obligations in Public Utilities in the European Union, held at EIPA, Maastricht, 28-29 November 1996. I am indebted to Alain Guggenbühl, Phedon Nicolaïdes and Robert Polet for their comments.
2. *European Commission, Services of general interest in Europe*, OPEEC, Brussels 1996, p. 6; as well as COM (96) 443 final, Brussels, 11.09.96.
3. *Ibid.*, p. 9.
4. Article 48(4) of the EC Treaty also refers to public service, but in the meaning of public service as a body. The French translation of public service in this Treaty Article is *administration publique*.
5. Case C-320/91, "Criminal proceedings against Paul Corbeau", [1993] ECR I-2563.
6. Case C-393/92, "Municipality of Almelo versus Energiebedrijf IJsselmij NV", [1994] ECR I-1477.
7. *The Régie des Postes* was part of the Belgian public service which became an autonomous public enterprise in 1994.
8. R. Kovar, *Droit communautaire et service public, esprit d'orthodoxie ou pensée laïcisée*, *Revue trimestrielle de droit européen*, 1996, pp. 493-533.
9. COM (87) 290 final, *Towards a Dynamic European Economy, Green Paper on the development of the common market for telecommunications services and equipment*, Brussels 30.6.1987.
10. OJ L 131, p. 73, 27.5.88.
11. OJ L 192, p. 10, 24.7.90.
12. OJ L 192, p. 1, 24.7.90.
13. OJ L 20 p. 59, 26.1.96.
14. COM(94) 440 final, *Green Paper on the Liberalisation of Telecommunications Infrastructure and Cable Television Networks, Part I: Principles and Timetable*, Brussels, 25.10.1994 and COM(94) 682 final, *Green Paper on the Liberalisation of Telecommunications Infrastructure and Cable Television Networks, Part II: A Common Approach to the Provision of Infrastructure for Telecommunications in the European Union*.
15. OJ L 74, p. 13, 22.03.96.
16. OJ L 321, p. 16, 30.12.95.
17. OJ C 220, p. 13, 22.7.96, based on the Commission's proposal: COM (95) 379 final, *Interconnection in telecommunications with regard to ensuring universal service and interoperability through the application of the principles of Open Network Provision*, Brussels, 19.07.1995.
18. See Y. Pouillet and F. Van der Mensbrugghe, "Service universel ou public dans la politique européenne des télécommunications", in: Loïc Grard, Jacques Vandamme et François van der Mensbrugghe (dir.), *Vers un service public européen*, ASPE Europe Editions, Paris 1996, pp. 333-413.
19. See Article 2 of the proposed Interconnection Directive.
20. COM (96) 419, *Proposal for a European Parliament and Council Directive on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment*, Brussels, 11.9.1996.
21. COM(96) 73 final, *Universal Service for Telecommunications in the Perspective of a Fully Liberalized Environment, An Essential Element of the Information Society*, Brussels, 13.03.1996.
22. COM (96) 608 final, *Assessment Criteria for National Schemes for the Costing and Financing of Universal Service in Telecommunications and Guidelines for the Member States on Operation of such Schemes*, Brussels, 27.11.1996.
23. COM (91) 476 final, *Green Paper on the Development of the Internal Market for Postal Services*, Brussels, 11 June 1992.
24. COM (93) 247 final, *Guidelines for the Development of Community Postal Services*, Brussels, 2 June 1993.
25. OJ C 322, p. 22, 2.12.95.
26. OJ C 300, p. 22, 10.10.96.
27. OJ C 65, p. 4, 14.3.1992.
28. OJ C 65, p. 14, 14.3.1992.
29. Directive 96/92/EC, OJ L 27, p. 20, 30.1.97.
30. Amended proposal for a European Parliament and Council Directive concerning common rules for the Internal Market for natural gas, OJ C 123, p. 26, 4.5.1994.
31. Council Regulation 1191/69/EEC, OJ L 156, p. 1, 28.6.69, amended by Council Regulation 1893/91/EEC, OJ L 169, p. 1, 29.6.91.
32. OJ L 237, p. 25, 24.8.91.
33. OJ C 321, p. 10, 1.12.95.
34. COM (96) 421 final, *White Paper, A strategy for Revitalizing the Community's Railways*, Brussels, 30.07.1996.
35. Resolution A4-0068/96, OJ C 96, p. 77, 1996.
36. The report of the Reflection Group uses the term public service utilities: 1996 Intergovernmental Conference, *Reflection Group Report and Other References for Documentary Purposes*, General Secretariat of the Council of the European Union, Brussels, December 1995, p. 48.
37. ISUPE is an association that regroups representatives from mainly French but also German, Belgian, Spanish and Portuguese public service undertakings which provides feedback on the role and place of regulated public services in the European Union.
38. CEEP is recognized as a social partner in the framework of European social dialogue and is the European interest group for many regulated public services enterprises in Europe.
39. CEEP, *Europe, concurrence et service public*, Masson, Paris, 1995.
40. *Ibid.*
41. Conference of the Representatives of the Governments of the Member States, *The European Union Today and Tomorrow, Adapting the European Union for the Benefit of its Peoples and Preparing it for the Future*, A General Outline for a Draft Revision of the Treaties, Conf 2500/96, Brussels, 5 December 1996. □